



Docket No. ORT1596DIV1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Kevor S. TenHuisen, et al.

Serial No. : 10/602,785 Art Unit: 1648

Filed : June 24, 2003 Examiner: Zachariah Lucas

For : IMMUNE MODULATION DEVICE FOR USE IN ANIMALS

I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope addressed
to: Commissioner For Patents, Washington, D.C. 20231 on

February 25, 2005

(Date of Deposit)

William K. Wissing

(Name of applicant, assignee, or Registered Representative)

February 25, 2005

(Date of Signature)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313

Letter

Dear Sir:

Applicants are filing a First Supplemental Disclosure Statement with the Request for Continued Examination. In a Letter dated June 27, 2002, filed in U.S. Serial No. 10/103,087, the parent application of this divisional application, Mr. Woodrow brought to the attention of the Commissioner non-provisional U.S. Patent Application No. 10/017,457, with an explanation as to the relationship of the '457 application to the present application. A copy of the Letter is appended hereto as Exhibit 1. As such, Applicants respectfully submit that the '457 application has been properly cited to the USPTO and should be indicated by the Examiner to have been considered by the Examiner on the record. In reviewing the present case prior to payment of the Issue Fee, Applicants noted that the '457 application published

on June 26, 2003 with Pub. No. 2003/0118630 A1. While asserting that the 2003/0118630 application fails to qualify as prior art to Applicants' claims, Applicants wish to present the published application in a form 1449 with a request that the Examiner initial the form 1449, indicating that the application has been considered on the record. Applicants further note that other references cited on the 1449 were cited in the '087 application by the Examiner on form 892 and thus should be indicated on the record as considered in the present application.

Applicants respectfully submit that pending claims 41, 42 and 5 are in condition for allowance and earnestly request that a Supplemental Notice of Allowance be issued with respect to those claims.

Respectfully submitted,

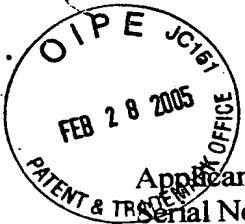


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EXHIBIT I

Docket No. ORT-1596

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : TenHuisen et al.
 Serial No. : 10/103,087
 Filed : March 21, 2002
 Title : IMMUNE MODULATION DEVICE FOR USE IN ANIMALS
 Art Unit : 1645
 Examiner :

I hereby certify that this correspondence is being deposited with the
 United States Postal Service as first class mail in an envelope addressed
 to: Commissioner of Patents, Washington, D.C. 20231 on

27 June 2002
(Date of Deposit)

Hal B. Woodrow
 (Name of applicant, assignee, or Registered Representative)

Hal B. Woodrow
(Signature)

27 June 2002

(Date of Signature)

Honorable Commissioner of Patents
 Washington, D.C. 20231

LETTER

Dear Sir:

As a part of the preparation of the provisional application Serial Number 60/290,542 from which this application claims priority, I investigated the inventorship of the claimed invention. From my investigation I determined that Messieurs Ten Huisen, Rosenblatt and Koyfman were the inventors of the invention claimed in provisional patent application 60/290,542 assigned to Ortho-McNeil Pharmaceuticals, Inc.

Pursuant to a contractual obligation, this application was supplied in confidence to a party to a research agreement for review. The party's attorney, Laura Coruzzi of Pennie & Edmonds, alleged that Anthony Cerami, Carla Cerami, and Qiao-Wen Xie were joint inventors. In view of this allegation I had the inventorship of this application investigated again and no facts were found that would support the allegation that Anthony Cerami, Carla Cerami, or Qiao-Wen Xie (Cerami et al.) are joint inventors of the inventions claimed in the provisional patent application or for that matter the present patent application. The Cerami et al's counsel, when

repeatedly asked to substantiate that allegation, failed to provide any facts or provide any corroborated evidence to substantiate that claim. Therefore, I had no information that would support changing the inventorship of the provisional application 60/290,542 or the above-identified application, which claims priority from the provisional application. Consequently, the originally named inventors in the provisional patent application have been named as the only inventors of the above-identified application.

Subsequently, it has come to my attention that Pennie & Edmonds has filed a copy (with a few minor changes) of the provisional application Serial No. 60/290,542 in the U.S. Patent Office as a non-provisional patent application 10/017,457 claiming benefit of Attorney Docket No. ORT-1295 (Serial No. 60/290,542).

Ms. Coruzzi and Mr. Ryan do not have authority to represent Messieurs TenHuisen, Rosenblatt or Koyfman and Ortho-McNeil Pharmaceuticals, Inc. is under no obligation to assign its rights to the inventions described in the above application to the Ceramis et al.

Ortho-McNeil Pharmaceuticals, Inc. has not granted Cerami et al. the right to claim priority from provisional patent application Docket No. ORT-1295 (Serial No. 60/290,542).

Respectfully submitted,

By: Hal B. Woodrow
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Dated: June 27, 2002